

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
February 5, 2003

ITEM: 16

SUBJECT: NPDES PERMIT REISSUANCE: NATIONAL STEEL AND SHIPBUILDING COMPANY – SAN DIEGO BAY, SAN DIEGO COUNTY (TENTATIVE ORDER NO. R9-2003-0005, NPDES PERMIT NO. CA0109134) (Paul J. Richter)

PURPOSE: To hold a public hearing and receive comments from interested parties regarding the tentative NPDES permit for waste discharge requirements for National Steel and Shipbuilding Company.

This Item was originally scheduled for the December Regional Board meeting. It was postponed when staff realized that the Union Tribune failed to publish the public notice for the December meeting.

PUBLIC NOTICE: A newspaper notice was published in the San Diego Union-Tribune on December 20, 2002. Copies of the notice for this hearing and the tentative Order were mailed on December 17, 2002 to the discharger and to all known interested parties and agencies. Copies were made available for public review at the Regional Board office on December 17, 2002 and were posted on the San Diego Regional Board's web site on December 24, 2002. These procedures served as the 30-day official public notification for this action, as required by Title 40, Section 124.10 of the Code of Federal Regulations.

DISCUSSION: See attached Staff Report dated January 16, 2003 for this Item.

COMPLIANCE RECORD: Over the past 12 months NASSCO has had two effluent violations, and five non-effluent discharge violations pursuant to Order No. 97-36. The two effluent violations were from a discharge of *fire main testing water* from the vessel *SLNC 8*. The effluent had a species survival rate of five percent for acute toxicity and violated

the specified permitted limit of 90% survival rate, 50% of the time. The effluent also violated the permitted chronic toxicity (TUC) survival rate of 1.0. The most significant non-effluent violation was the failure to notify the Regional Board 48-hours prior to a planned flooding of the drydock.

No industrial storm water discharges to San Diego Bay have occurred since the winter of 2001. NASSCO has implemented an extensive storm water diversion system that can capture 100% of the runoff from a 100-year, 24-hour storm event by diverting the storm water to the graving dock, which has a capacity of approximately 33 million gallons. See the Staff Report for the DISCUSSION section of this report.

On March 14, 2001 this Regional Board assessed a civil liability to NASSCO of one hundred thirty-five thousand eight hundred one dollars (\$135,801) for 13 point source discharges of industrial storm, which failed to achieve the toxicity specification of 90% survival rate, 50% of the time. These violations occurred during a storm event on February 12, 2000. The Regional Board reviewed the 21 violations and adjusted the total number of discharge points in violation from 21 to 13. All of the discharge points had 85% or less survival rate. Some discharge points had 0% survival rate. The reported volume of industrial storm water discharge was 396,378 gallons.

LEGAL CONCERNS:

Briggs Law Corporation and the Environmental Health Coalition (EHC) contend that numerical effluent limitations for industrial storm water discharges should be included in the shipyard permits and Naval Base permits. They contend that the numerical effluent limitations should be derived from the California Toxics Rule (CTR) and State Implementation Policy (SIP). The CTR establishes water quality criteria for receiving water.

The *Introduction* to the SIP, p.1 footnote 1, declares . . . *This Policy does not apply to regulation of storm water discharges.* The SIP was not used to establish effluent limitations for the discharges of industrial storm water. The State Board's Office of Chief Counsel has confirmed that the SIP does not apply to the regulation of storm water discharges.

**SUPPORTING
DOCUMENTS:**

1. Staff Report, dated January 16, 2003 for Item 16, Discussion section.
2. Tentative Order No. R9-2003-0005, draft NPDES Permit No. CA0109134 (Including the Monitoring and Reporting Program and the Fact Sheet).
3. Transmittal Letter dated December 17, 2002.
4. Public Notice Document dated December 20, 2002.
5. Comment letter from San Diego Bay Council, dated November 27, 2002.
6. Memorandum, Response to Comments, dated January 23, 2003.
7. Location Map and Facility Plot Map.

SIGNIFICANT CHANGES

- FROM ORDER NO. 97-36:**
1. Tentative Order No. R9-2003-0005 was written for the specific operational, structural, and discharge conditions at NASSCO.
 2. NASSCO has developed a Storm Water Diversion System (SWDS) to eliminate or reduce the discharges of industrial storm water.
 3. The tentative Order includes monitoring of the point source discharges (excluding industrial storm water discharges) for priority pollutants. The monitoring data will be used for a reasonable potential analysis pursuant to the SIP.

RECOMMENDATION: Staff recommends adoption of tentative Order No. R9-2003-0005.